

Date

Mr. Matthew Duhon  
Administrator  
Southwest Louisiana Veterans Home  
1610 Evangeline Rd.  
Jennings, LA 70546

**Re: Louisiana Board of Ethics Docket No. 2021-1057  
Advisory Opinion**

Dear Mr. Duhon:

The Louisiana Board of Ethics ("Board"), at its February 4, 2022 meeting, considered your request for an advisory opinion regarding whether the Code of Governmental Ethics ("Code") would prohibit your wife, Rachael Duhon, from working part-time for Heart of Hospice, if Heart of Hospice conducts business with the Southwest Louisiana Veterans Home ("Home") while you serve as the Home's Administrator.

**FACTS PROVIDED**

You provided that the Home does not have a business relationship with the Heart of Hospice. You provided that the Home severed its relationship with Heart of Hospice in 2015 after receiving an ethics opinion (Board Docket No. 2015-563) in which the Board held that La. R.S. 42:1113 would prohibit your wife from providing services at the Home as an employee of Heart of Hospice. After severing the relationship, your wife was employed by Heart of Hospice. Further, the opinion concluded that you would be prohibited by La. R.S. 42:1111C(2)(d) from accepting compensation for services your wife provided to Heart of Hospice if it had a relationship with the Home, since you had a community property regime.

You are requesting a follow-up opinion as your wife is now only working part-time for Heart of Hospice and she would not provide any services at the Home. Further, an exception to the prohibitions found in La. R.S. 42:1111C(2)(d) of the Code was enacted in 2021 and codified in La. R.S. 42:1111C(5)(a). You stated that she would not receive any compensation from any business arrangement between the Home and Heart of Hospice. Any services provided to veterans at the Home would be billed to outside providers. You stated that your wife has no ownership interest in Heart of Hospice or its new owner, the LHC Group. You provided that you will not participate in any transactions between your agency and Heart of Hospice.

**Law**

**La. R.S. 42:1111C(2)(d)** prohibits a public servant and a legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent from receiving any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person

during his public service unless such services are neither performed for nor compensated by any person from whom such public servant would be prohibited by La. R.S. 42:1115(A)(1) or (B) from receiving a gift.

**La. R.S. 42:1111C(5)(a)** Notwithstanding the provisions of La. R.S. 42:1111C(2)(d), the spouse of a public servant may continue employment with a person who has or is seeking a contractual or other business or financial relationship with the public servant's agency provided all of the following conditions are met:

(i) The spouse is a salaried or wage-earning employee and has been continuously employed by the person for at least one year prior to the date the compensated employment would have otherwise initially been prohibited.

(ii) The compensation of the spouse is substantially unaffected by a contractual or other business or financial relationship with the public servant's agency.

(iii) Neither the public servant nor the spouse is an owner, officer, director, trustee, or partner in the legal entity which has or is seeking to have the relationship with the public servant's agency.

(iv) The public servant recuses or disqualifies himself from participating in any transaction involving the spouse's employer in accordance with R.S. 42:1112 and related rules and regulations.

(v) Either prior to or within ten business days of the date the compensated employment would otherwise be prohibited, the spouse and the public servant jointly file with the Board of Ethics a written notice containing a brief description of the nature of the contractual, business, or financial relationship with the public servant's agency, the date the spouse was employed by the person, and any other information required by the board.

(vi) The spouse complies with the disclosure requirements in R.S. 42:1114.

**La. R.S. 42:1113A(1)(a)** states no public servant, or a member of such public servant's immediate family, or a legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

**La. R.S. 42:1115A(1)** prohibits a public servant from soliciting or accepting, directly or indirectly, anything of economic value as a gift or gratuity from any person or from any officer, director, agent, or employee of such person, if such public servant knows or reasonably should know that such person has or is seeking to have a contractual, other business or financial relationship with the public servant's agency.

## ANALYSIS

Under the new facts presented herein, La. R.S. 42:1113A(1)(a) would not prohibit Rachael Duhon from providing part-time services to Heart of Hospice provided she does not provide any services at the Home or under the business or financial relationship between the Home and Heart of Hospice. La. R.S. 42:1113A(1)(a) prohibits a public servant, or a member of his immediate family,



from bidding on or entering into any contract, subcontract or other transaction that is under the supervision or jurisdiction of his agency. Since Mrs. Duhon would not be providing any services to the Home, she would not be entering into any transactions under the jurisdiction or supervision of your agency, the Home.

Generally, La. R.S. 42:1111C(2)(d) would prohibit you and your wife from accepting compensation for services rendered to Heart of Hospice while you serve as the Home's Administrator and Heart of Hospice has a business relationship with the Home. However, an exception to the prohibition is found in La. R.S. 42:1111C(5)(a).

La. R.S. 42:1111C(5)(a) allows Mrs. Duhon to continue her employment with Heart of Hospice even though Heart of Hospice has a business relationship with your agency, the Home, since Ms. Duhon's employment complies with the criteria in Section 1111C(5)(a)(i)-(iii). She is a salaried/wage-earning employee of Heart of Hospice, she has been working for the company more than one year, her compensation would not be affected by the business relationship between her employer and the Home, and she is not an owner, officer, director, trustee, or partner in Heart of Hospice. However, application of this exception is conditioned on 1) you recusing yourself from participating in transactions involving the Heart of Hospice, 2) you and your wife filing a disclosure with the Board of Ethics within ten days of the contractual relationship between Heart of Hospice and the Home, and 3) your wife disclosing her income annually by May 15<sup>th</sup> with the Board pursuant to La. R.S. 42:1114.

### CONCLUSION

The Board concluded, and instructed me to inform you, that since the conditions in La. R.S. 42:1111C(5)(a)(i)-(iii) are all met, and provided you and your spouse file the appropriate disclosures, your wife is **not** prohibited by the Code from being employed with Heart of Hospice. Enclosed are the followings:

- a. The form pursuant to La. R.S. 42:1111C(5)(a)(v) that must be completed by you and your wife and filed with the Board within 10 days of the relationship between the Home and Heart of Hospice.
- b. The form pursuant to La. R.S. 42:1114 that must be completed by your wife every May 15<sup>th</sup> disclosing the income that she earned from Heart of Hospice in the prior calendar year.
- c. A copy of Chapter 14 of the Rules for the Board of Ethics that contains the procedure for submitting a disqualification plan to the Board that would remove you from the process of participating in matters involving Heart of Hospice. The plan should be submitted to the Board for approval prior to the Home entering into a relationship with the Heart of Hospice.

Changes to the facts as presented may result in a different application of the provisions of the Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

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Suzanne Quinlan Mooney  
For the Board

**DISCLAIMER**  
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics.  
No party may rely on the facts or conclusions. The analysis and conclusions herein are provided for discussion purposes only, and are subject to change or revision at the meeting of the Board of Ethics at which this matter is considered.